

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CONTINENTAL D.I.A. DIAMOND  
PRODUCTS, INC., a California corporation,

Case No. CV 08-2136 SI

**Plaintiff,**

vs.  
DONG YOUNG DIAMOND INDUSTRIAL  
CO., LTD., a South Korean company,  
DONGSOO LEE, an individual, and DOES 1-  
10, inclusive.

**FIFTH JOINT STIPULATION AND  
[PROPOSED] ORDER FOR  
MODIFICATION OF CASE  
MANAGEMENT SCHEDULE AND  
TRIAL DATE**

Judge: Honorable Susan Illston

Complaint Filed: April 24, 2008  
Trial Date: July 1, 2010

### Defendants.

## AND RELATED COUNTERCLAIMS.

## **STIPULATION**

WHEREAS, Continental D.I.A. Diamond Products, Inc. (“Continental” or “Plaintiff”) and Defendants Dong Young Diamond Industrial Co., Ltd. and DongSoo Lee (collectively “Defendants”) continue to engage in settlement discussions, which respective counsel believe have lead to a final resolution of this matter;

WHEREAS, the parties have reached near final agreement on terms of settlement and have taken steps to assure settlement once reached will be effected:

WHEREAS, respective counsel for the parties have been and continue to be in frequent contact to attempt to resolve the differences between the parties;

WHEREAS, the parties, mindful of this Court's interest in having this case resolved, and confident of the parties' ability to resolve this highly complex matter, are diligently working to finalize the settlement agreement. However, given the complicated nature of some of the intellectual property at issue and due to the continuing time-zone and communication, multi-lingual and multi-cultural challenges faced by counsel for Defendants, the parties require a small amount of additional time;

WHEREAS, counsel for the parties believe that an additional fifteen (15) day suspension of applicable deadlines in this case will allow the parties and counsel to continue to devote their attention and resources to a final resolution of this matter;

WHEREAS, the agreed upon extension of the fact and expert discovery deadlines, and dispositive motion deadlines is not for the purpose of delay, and the parties believe that this reasonable extension of time may well obviate the need for trial in this matter, and is in the interests of fairness and judicial economy.

ACCORDINGLY, the parties, by and through their undersigned counsel, HEREBY  
STIPULATE as follows:

In order to avoid prejudicing the parties' discovery efforts and trial preparations, and to allow the parties to focus on settlement negotiations, the parties agree and respectfully request that the current pre-trial schedule be modified as follows:

1. The fact discovery cut-off, which is currently set for February 22, 2010, is extended to March 9, 2010;

2. The deadline to designate experts, which is currently set for March 31, 2010, is extended to April 15, 2010;

3. The deadline to designate rebuttal experts, which is currently set for April 26, 2010, is extended to May 11, 2010; and

4. The expert discovery cut-off, which is currently set for May 12, 2010, is extended to May 27, 2010.

1       5. The dates for dispositive motions are extended for fifteen (15) days, to the following  
2 schedule:

- 3           • Dispositive Motions Due: April 1, 2010  
4           • Oppositions Due: April 13, 2010  
5           • Replies Due: April 22, 2010

6       6. The hearing on dispositive motions, which is currently set for May 3, 2010, is reset  
7           <sup>21</sup> for May 18, 2010, or as soon thereafter as the Court's schedule permits.

8       7. All other deadlines are tolled for fifteen (15) days as of the date of this stipulation.

9       **IT IS SO STIPULATED BY THE PARTIES.**

10      Dated: January 15, 2010           MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO P.C.

12           */s/ Jeffrey M. Ratinoff*  
13      By: JEFFREY M. RATINOFF

14           Attorneys for Plaintiff/Counter-Defendant,  
15           Continental D.I.A. Diamond Products, Inc.

16      Dated: January 15, 2010           PRETI FLAHERTY BELIVEAU & PACHIOS, LLP

18           */s/ Alfred C. Frawley*  
19      By: ALFRED C. FRAWLEY

20           Attorneys for Defendants/Counterclaimants,  
21           Dong Young Diamond Industrial Co., Ltd., and DongSoo Lee

22       **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

23      Dated:



25           THE HONORABLE SUSAN ILLSTON  
26           UNITED STATES DISTRICT COURT JUDGE

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